

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

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|--|---|----------------------|
| BLANKENBERGER BROTHERS |) | |
| HOLDINGS, LLC., <i>et al.</i> , |) | |
| Plaintiffs/Counter Defendants, |) | |
| vs. |) | 1:06-cv-0362-LJM-DML |
| |) | |
| BRONCO COAL COMPANY, <i>et al.</i> , |) | |
| Defendants/Counter Plaintiffs, |) | |
| |) | |
| vs. |) | |
| |) | |
| PATRICK BLANKENBERGER, <i>et al.</i> , |) | |
| Third-Party Defendants. |) | |

ORDER

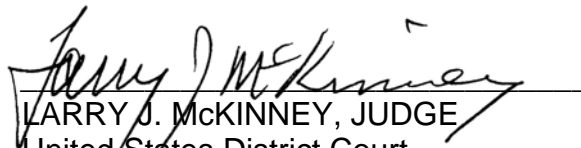
This matter is before the Court on third-party defendants', Patrick Blankenberger, Rick J. Blankenberger, David M. Blankenberger, John Brandt, Black Rush Mining, LLC, BryceDowney, LLC, Geoffrey A. Bryce, Jeanne M. Hoffman, Five Star Mining, Inc., Lafayette Coal Company, Inc., and Tim Kerr (collectively, the "Third-Party Defendants"), Motion for Limited Relief From Stay and for Entry of Separate Judgment on Dismissed Claims and Sanctions Order ("Motion for Judgment on Sanctions") (Dkt. No. 282); plaintiffs', Blankenberger Brothers Holdings, LLC and Hoosier King Coal Company (collectively, the "Plaintiffs"), Motion to Lift Stay and Set Trial Date ("Motion to Lift Stay") (Dkt. No. 288); Third-Party Defendants' Renewed Motion for Entry of Separate Judgment on Dismissed Claims and Sanctions Order ("Renewed Motion for Judgment on Sanctions") (Dkt. No. 289); and defendant's, Daniel Hodges ("Hodges"), Motion to Dismiss (Dkt. No. 291). The factual background of this case is set forth in the Court's January 25, 2007,

Order. Dkt. No. 141.

In the their Motion for Judgment on Sanctions and Renewed Motion for Judgment on Sanctions, the Third-Party Defendants ask the Court to enter judgment in their favor on the sanctions that the Court awarded Third-Party Defendants when it dismissed third-party plaintiffs', Bronco Coal Co. and Daniel Hodges (collectively, the "Third-Party Plaintiffs"), Amended Complaint. See *generally* Dkt. Nos. 141, 165. However, as the Court previously ruled, its Order sanctioning Third-Party Plaintiffs' counsel is stayed until the final disposition of this litigation. Dkt. No. 173. Accordingly, Third-Party Defendants' Motion for Judgment on Sanctions and Renewed Motion for Judgment on Sanctions are **DENIED**.

Plaintiffs Motion to Lift Stay is unopposed and, accordingly, is **GRANTED**. Likewise, Hodges' Motion to Dismiss is unopposed and is **GRANTED**. To the extent that the Third-Party Plaintiffs' response briefs to Third-Party Defendants' Motion for Judgment on Sanctions and Renewed Motion for Judgment on Sanctions ask the Court to revisit its prior rulings, the Court declines to do so. Furthermore, the Court sees no need for further delay in this case. Accordingly, the Court **SETS** this case for a **BENCH TRIAL** on **Monday, February 14, 2011, at 9:30 a.m.** The **FINAL PRETRIAL CONFERENCE** will be held on **Friday, January 28, 2011, at 10:00 a.m.**, in Room 512, Birch Bayh Federal Building and United States Courthouse, 46 East Ohio Street, Indianapolis, Indiana.

IT IS SO ORDERED THIS 19th day of November, 2010.


LARRY J. MCKINNEY, JUDGE
United States District Court
Southern District of Indiana

Distribution attached.

Distribution to:

Jeff M. Barron
BARNES & THORNBURG LLP
jeff.barron@btlaw.com

Sara R. Blevins
LEWIS & KAPPES
sblevins@lewis-kappes.com

Peter S. French
LEWIS & KAPPES
pfrench@lewis-kappes.com

Jeanne M. Hoffmann
BRYCEDOWNEY LLC
jhoffmann@brycedowney.com

Raymond M. Krauze
BRYCEDOWNEY, LLC
rkrauze@brycedowney.com

Frank C. Rowland
BRYCEDOWNEY, LLC
frowland@brycedowney.com

Richard A. Saldinger
SHAW GUSSIS FISHMAN GLANTZ WOLFSON & TOWBIN LLC
rsaldinger@shawgussis.com

Jennifer Van Blargan
BRYCEDOWNEY, LLC
201 N. LaSalle Street
Suite 2700
Chicago, IL 60601

James E. Zoccola
LEWIS & KAPPES
jzoccola@lewis-kappes.com